

ORDINANCE NO. 2022-01

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF HOTCHKISS, COLORADO, ADDING PROVISIONS TO THE TOWN OF HOTCHKISS MUNICIPAL CODE FOR FENCING REGULATION

RECITALS:

WHEREAS, the Town of Hotchkiss (the “**Town**”), in the County of Delta and State of Colorado, is a municipal corporation duly organized and existing under the laws of the State of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-23-301, the Town has the power to regulate buildings and other structures for the purposes of promoting health, safety, and the general welfare of the community; and

WHEREAS, the Board of Trustees determines that it is in the best interest of the community and the public health, safety and welfare of the citizens of the Town to supplement the Town Code to add this provision to the Municipal Code.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HOTCHKISS COLORADO, AS FOLLOWS:

Section 1. Legislative Findings.

The recitals to this Ordinance are adopted as findings of the Board of Trustees in support of the enactment of this Ordinance.

Section 2. Addition to the Town Code.

Sec. 10-8-1- shall be added to the Town Code as follows:

- (1) All fences, hedges, and walls (combined “**fence(s)**”) are subject to the applicable sections of the International Building Code version as adopted by the Town.
- (2) Prior to the installation of a new fence the property owner or their agent shall file for a fence review with the Town Building Official, Town Clerk or designee and shall pay the appropriate review fee as may be set by the Town Board of Trustees via resolution. The purpose of the Town requiring a fence review and fee is to allow the Town Building Official, Town Clerk, or designee to inspect the proposed fence plan to confirm that it meets the provisions of the Town Code, and that the fence does not encroach on a public right-of-way.
- (3) No fence may extend beyond or across a property line unless it is done with the joint agreement of the abutting property owners. It shall be the responsibility of the property owner to locate all property lines.

- (4) No fence shall encroach upon a public right-of-way or a public sidewalk, including alleys and streets of the Town of Hotchkiss.
- (5) Barbed wire or electrically charged fence are prohibited. Fence which are ornamental in nature, but which may have a point, i.e. picket or metal décor are permitted, provided they do not pose a health or safety concern. Fences which contain sharp objects which are not ornamental, i.e. razor wire or spiked fences, and can cause harm are prohibited.
- (6) No fence shall exceed a maximum height of six feet (6'). Fences located within the area between the property line and the front set back, twenty five feet (25'), shall not exceed a maximum height of four feet (4'). The height shall be measured at the finished grade on the side of the fence nearest the street or abutting property.
- (7) The Board of Trustees may grant a permit for fences which exceed the maximum height upon application in specific cases and subject to compliance with the following standards:
 - a. The proposed fence or wall shall not adversely affect traffic safety or appropriate use of adjacent property.
 - b. The fence or wall is necessary to provide security, privacy, or protection from traffic impacts such as noise or lights.
 - c. The fence shall not detract from the safety or pedestrian character of the right-of-way.
- (8) Any person requesting a variance from these code provisions shall apply for the same in accordance with the Town Code.
- (9) Any fence lawfully constructed and maintained in accordance with previously applicable regulations, but not in conformity with these regulations, may be maintained in substantial conformity with its existing condition. Any non-conforming fence which is removed or destroyed may be replaced only with a complying fence.
- (10) It shall be unlawful for any person who violates this provision of the Town Code. Any violation of this Code section is hereby declared to be a nuisance and may be abated in accordance with the Town Code.

Section 3. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

Section 4. Repeal of Prior Ordinances.

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. Ordinance Effect.

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed, provided, however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 6. Effective Date.

This Ordinance shall take effect thirty days after publication.

INTRODUCED, READ AND REFERRED for first read before the Board of Trustees of the Town of Hotchkiss, Colorado, on the 12th day of Apr 2022.
14th April

HEARD AND FINALLY ADOPTED by the Board of Trustees of the Town of Hotchkiss, Colorado, this 12th day of May 2022.

**TOWN OF HOTCHKISS, COLORADO,
A MUNICIPAL CORPORATION**

By: *Jim Wingfield*
Jim Wingfield, Mayor

ATTEST:

Ginger R. Redden
Ginger Redden, Town Clerk

